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In re Application of
Sheridan, Timothy B.
Application No. 09/783,811
Filed: February 15, 2001
Attorney Docket No. S2029/20001

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 9, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to submit formal drawings and the issue fee in a timely manner in reply to the Notice of Allowability and Notice of Allowance mailed October 22, 2002. Accordingly, the above-identified application became abandoned on January 23, 2003. A Notice of Abandonment was mailed on March 5, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply,
- (2) the petition fee,
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
- (4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.²

¹ In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

² See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item (3).

It is unclear whether the *entire* delay in filing the required reply was unintentional. In section 5 of the declaration of applicant, Timothy B. Sheridan, submitted with the instant petition, the applicant states, "During my hospitalizations, I have received medical treatment which has enabled me to temporarily regain my ability to make rational and informed decisions." Next, in section 8, the applicant states that on August 12, 2003, "I informed Mr. Berkowitz that I had no further interest in pursuing the above-captioned application and instructed him to do no further work on this case." Presently, petitioner has failed to submit any documentation that would lead one to believe that the applicant could not make "rational and informed decisions" in August 2003.

Further, the above-identified application has been abandoned for an extended period of time. As stated by the applicant, there were times when Mr. Sheridan *could* make rational and informed decisions. It is unclear why the applicant did not attempt to ensure revival of the application during such periods, rather than waiting until May 2005 to file the instant petition.

Accordingly, to revive the above-identified application, documents addressing the above issues should be submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Window located at:

 U.S. Patent and Trademark Office
 Customer Service Window Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By fax: (571) 273-8300
 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.



Liana Chase
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for Patent Examination Policy